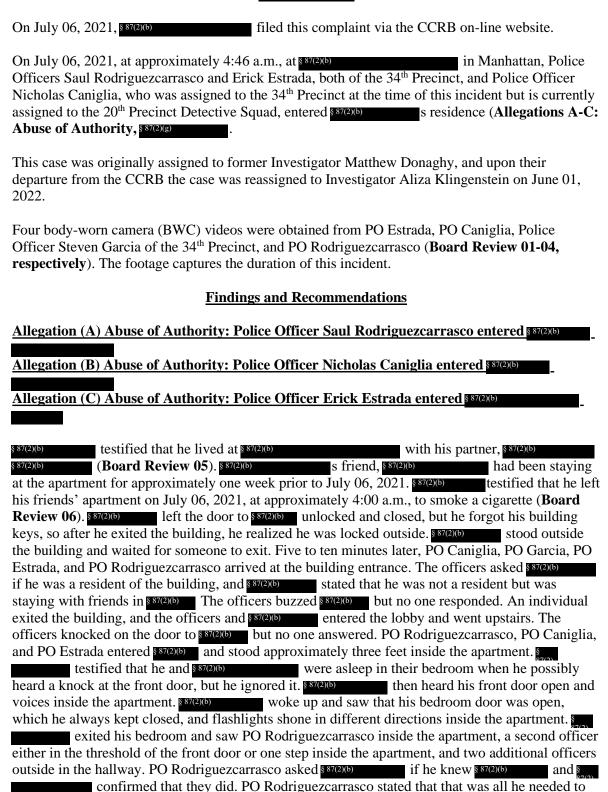
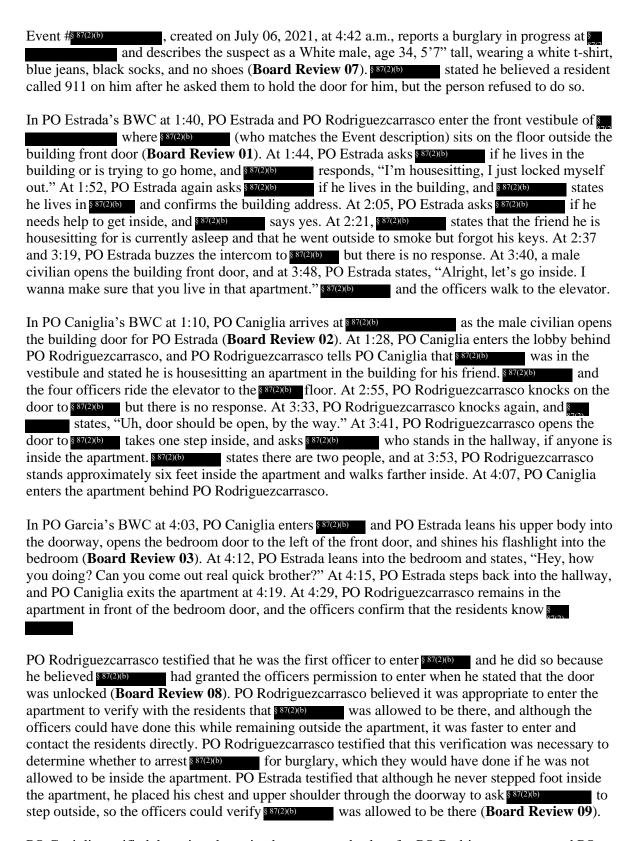
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Force	☐ Discourt.	U.S.
Aliza Klingenstein		Squad #16	202103998	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Tuesday, 07/06/2021 4:46 AM		§ 87(2)(b)		34	1/6/2023	1/6/2023
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	Received at CCR	lB
Tue, 07/06/2021 11:09 AM		CCRB	On-line website	Tue, 07/06	5/2021 11:09 AM	
Complainant/Victim	Type	Home Addre	ss			
Witness(es)	Vitness(es) Home Address					
Subject Officer(s)	Shield	TaxID	Command			
1. PO Nicholas Caniglia	10226	955783	020 DET			
2. PO Erick Estrada	11358	967497	034 PCT			
3. PO Saul Rodriguezcarrasco	14456	967667	034 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. PO Steven Garcia	19718	969717	034 PCT			
Officer(s)	Allegatio	on		Inve	estigator Recom	mendation
A.PO Saul Rodriguezcarrasco	Abuse: Police Officer Saul Rodriguezcarrasco entered \$87(2)(6)			d		
B.PO Nicholas Caniglia	Abuse: Police Officer Nicholas Caniglia entered \$ 87(2)(b)					
C.PO Erick Estrada	Abuse: Police Officer Erick Estrada entered \$ 87(2)(b)					

Case Summary



know, and the officers left.



PO Caniglia testified that, since he arrived on scene as backup for PO Rodriguezcarrasco and PO Estrada, he entered for no reason other than to provide backup for PO Rodriguezcarrasco, who entered first (**Board Review 10**). PO Caniglia did not know why PO Rodriguezcarrasco

decided to enter the apartment and did not recall any emergencies at play, but he assumed PO Rodriguezcarrasco and PO Estrada had learned something prior to PO Caniglia's arrival that justified their entry into [57(2)]

<u>Payton v. New York</u>, 445 U.S. 573 held that the breach of the entrance to an individual's home is an entry (**Board Review 11**). Officers may enter a premise when they have a warrant authorizing such entry. There are few exceptions to entering a premise without a warrant, including exigent circumstances, the emergency doctrine, hot pursuit, plain view doctrine, and voluntary consent.

<u>People v. Cosme</u>, 48 N.Y.2d 286 held that officers may enter a dwelling when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises to be entered (**Board Review 12**).

It is undisputed that PO Rodriguezcarrasco and PO Caniglia entered society is residence, and the investigation determined that when PO Estrada placed his upper body through the doorway, he also entered as per Payton v. New York. While PO Rodriguezcarrasco and PO Estrada testified that they entered to verify information as they investigated the alleged burglary, it is undisputed that the officers could have verified this from the hallway. As society told the officers he was housesitting for his friends, he acknowledged that he did not live at the location, and he therefore lacked the authority and control required to consent to the officers' entry as per People v. Cosme. Further, PO Caniglia was on scene for three minutes prior to entering from PO Rodriguezcarrasco, and he went up to the floor with the other officers. Society floor with the other officers. Society floor with the other officers. PO Rodriguezcarrasco, PO Estrada, and PO Caniglia entered society is residence.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) and \$87(2)(b) have each been a party.
- PO Rodriguezcarrasco has been a member of service for three years and this is the first CCRB
 complaint to which he has been a subject.
- PO Caniglia has been a member of service for eight years and this is the first CCRB complaint to which he has been a subject.
- PO Estrada has been a member of service for three years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 14, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 13).

•	§ 87(2)(b)

Squad:	16		
Investigator:	Inv. Klingenstein Signature	Inv. Aliza Klingenstein Print Title & Name	June 30, 2022 Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date